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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,427	11/24/2000	Christophe Lacroix	033808.137	1586

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EXAMINER

SHORT, PATRICIA A

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/718427

Applicant(s)

LaCroix et al.

Examiner

Shurt

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on March 14, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-12, 14 is/are pending in the application.
- Of the above claim(s) 4, 6, 10, 11, 14 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-3, 5, 7-9, 12 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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This action is in response to the request for continued examination (RCE) filed on March 14, 2003. The amendment previously filed on January 13, 2003 under 37 CFR 1.116 has been entered.

Claims 4 and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 9.

Claims 6, 11 and new claim 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese '947. The reference teaches a thermoplastic polyester composition comprising a thermoplastic component consisting of a thermoplastic polyester and an impact modifier consisting of an epoxy group containing copolymer that can be an ethylene/unsaturated epoxide copolymer and a graft copolymer that can be polyacrylate core/methylmethacrylate shell graft copolymer. See the translation at pages 15-16 where ethylene/unsaturated epoxide copolymer and polyacrylate core/methylmethacrylate shell graft copolymer are exemplified. Each of the epoxy group containing copolymer and the graft copolymer is used in amounts of 1-80 part per 100 parts of polyester. See the translation at page 3, last paragraph. The examples include

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combinations of epoxy group containing copolymer and core-shell copolymer in ratios of 40/60 to 10/90. As suggested by the reference, it would have been obvious to add a combination of an ethylene/unsaturated epoxide copolymer and an polyacrylate/methylmethacrylate core-shell copolymer in a ratio of 40/60 to 10/90 to a thermoplastic polyester in order to obtain an impact modified thermoplastic polyester composition. Further, it would have been obvious to add a combination of an ethylene/unsaturated epoxide copolymer and an polyacrylate/methylmethacrylate core-shell copolymer in an amount of greater than 40 % to a thermoplastic polyester in order to obtain an impact modified thermoplastic polyester composition. With the exception of claim 9, the claims do not require any specific ratio of ethylene/unsaturated epoxide copolymer to core-shell copolymer when the impact modifier is used in amounts of greater than 40%.

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April 28, 2003

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